

EXECUTIVE ORDER NO. 11-15

WHEREAS, under chapter 89C of the Hawai'i Revised Statutes (HRS), the Governor has been granted the authority to make adjustments to the wages, hours, benefits, and other terms and conditions of employment for elected and appointed officials and public officers and employees in the executive branch who are excluded from collective bargaining coverage; and

WHEREAS, for excluded employees who are civil service employees under the same classification systems as employees within collective bargaining units, chapter 89C requires that the adjustments be "not less than" those provided under the collective bargaining agreements for employees hired on a comparable basis; and

WHEREAS, chapter 89C also requires that the adjustments for excluded civil service employees result in compensation and benefit packages that are "at least equal to" the compensation and benefit packages provided under collective bargaining agreements for counterparts and subordinates within the Employer's jurisdiction; and

WHEREAS, chapter 89C provides that each appropriate authority shall determine the adjustments that are relevant for their respective excluded employees who are exempt from civil service in consideration of the compensation and benefit packages provided for other employees in comparable agencies; and

WHEREAS, on January 27, 2011, the State entered into the attached Settlement Agreement with the United Public Workers (UPW), as the exclusive representative for Bargaining Units (BUs) 1 and 10; and

WHEREAS, the terms of the Settlement Agreement should also apply to civil service and exempt employees within the Executive Branch who are excluded from BUs 1 and 10.

NOW, THEREFORE, I, Neil Abercrombie, Governor of Hawai'i, pursuant to my executive authority under Articles V and VII of the Constitution of the State of Hawai'i, the provisions of Chapters 37 and 89C, Hawai'i Revised Statutes, and all other applicable authority, do hereby grant to state executive branch civil service and exempt employees who are excluded from BUs 1 and 10 the same terms as set forth in the attached January 27, 2011 Settlement Agreement applicable to the BUs 1 and 10 employees.

IT IS FURTHER ORDERED, that although the terms of the Settlement Agreement do not apply to 89-day hire employees; effective on this day of this Executive Order, appointing authorities may discontinue the furloughs for those 89-day hire employees who are excluded from BUs 1 and 10, who occupy positions that are similarly special/federal funded;

IT IS FURTHER ORDERED that this Executive Order is not intended to create, and does not create, any rights or benefits, whether substantive or procedural, or enforceable at law or in equity, against the State of Hawai'i or its agencies, departments, entities, officers, employees, or any other person;

IT IS FURTHER ORDERED that these provisions are subject to amendment by Executive Order.

The Director of Human Resources Development shall be responsible for the uniform administration of this Executive Order and is authorized to make any

interpretations concerning the applicability of this Executive Order to State officers and employees of the State government executive branch who are excluded from BUs 1 and 10.

DONE at the State Capitol, Honolulu,
State of Hawai'i, this 21st day of
March, 2011.


NEIL ABERCROMBIE
Governor

APPROVED AS TO FORM:



DAVID M. LOUIE
Attorney General

SETTLEMENT AGREEMENT

This Settlement Agreement is entered into this 27th day of January, 2011, by and between the State of Hawai'i, Department of Human Resources Development, (hereinafter "Employer") and the United Public Workers, Local 646, AFSCME, AFL-CIO (hereinafter "Union"), collectively referred to as "Parties".

WHEREAS, it is the Parties' desire to resolve outstanding issues related to furloughs and the Hawaii Employer-Union Health Benefits Trust Fund (EUTF); and

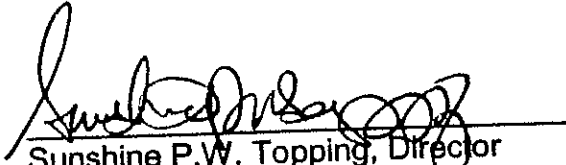
NOW THEREFORE, in the interest of the Parties to effect a full and final compromise and settlement of any and all matters, claims, and causes of action arising out of these unresolved issues, the Parties hereto mutually agree as follows:

1. The State of Hawaii Furlough Plan applicable to UPW Executive Branch Bargaining Units 1 and 10 employees shall be discontinued for federal/special funded employees (funded 100% or less) for the pay periods beginning March 1, 2011 and ending June 30, 2011.
2. The pay of these federal/special funded employees shall be restored back to reflect the salary schedules in effect on June 30, 2009.
3. These federal/special funded employees shall receive thirty two (32) hours compensatory time off (CTO), to be taken in accordance with the collective bargaining agreements (CBA).
4. All furloughed employees, including federal/special funded employees, shall receive fifty-six (56) hours CTO, to be taken in accordance with the CBA.
5. CTO for less than full-time employees shall be prorated in accordance with their full-time equivalency.
6. The Parties agree to withdraw any and all unresolved furlough and EUTF related grievances, arbitrations, and/or litigations.
7. The State of Hawaii Furlough Plans dated February 1, 2010 (BU 10) and February 25, 2010 (BU 1), hereto attached as Exhibit A, shall remain in effect for non federal/special funded employees through June 30, 2011 with the following addendum:
 - a. When an employee is required to report to work on the employee's scheduled furlough day off, the employee shall be paid overtime. In addition, the furlough day shall not be rescheduled to a later date.

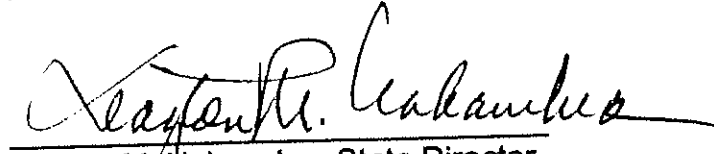
8. The Union and Employer shall meet to jointly resolve unanticipated concerns related to the implementation of this Settlement Agreement.
9. The Parties agree that this Settlement Agreement shall be restricted in scope and application to the parameters of the instant issues, and shall not be construed as precedent in any other grievance, dispute or future proceeding.

IN WITNESS WHEREOF, the Parties hereto, through their duly authorized representatives, have executed this Settlement Agreement as of the date first written above.

FOR THE EMPLOYER:


Sunshine P.W. Topping, Director
Department of Human Resources
Development

FOR THE UNION:


Dayton M. Nakanelua, State Director
United Public Workers



**STATE OF HAWAII
FURLOUGH PLAN
UPW Bargaining Unit 1**

Plan Summary

For the purposes of this plan, a furlough is defined as the placement of an employee temporarily and involuntarily in a non-pay and non-duty status by the Employer because of lack of work or funds, or other non-disciplinary reasons.

This furlough plan applies to all Executive Branch employees of the State of Hawaii under the authority of the Governor who are members of UPW bargaining unit 1.

Full-time State Executive Branch employees under the authority of the Governor will be placed on furlough for a total of thirty-seven (37) days during the furlough plan period, effective January 1, 2010 through June 30, 2011. Full-time employees will be furloughed thirteen (13) days effective January 1, 2010 through June 30, 2010, and twenty-four (24) days effective July 1, 2010 through June 30, 2011.

Part-time employees under this furlough plan will be placed on furlough on a pro-rated equivalent basis. For example, those who work 20 hours per week will be placed on furlough for a total of eighteen and one-half (18 ½) days, instead of thirty (37) days during the furlough plan period.

This plan does not assure continued employment during the furlough period specified herein.

General provisions of the furlough plan are as follows:

1. The furloughs shall be applicable to affected employees, regardless of the means of financing for their positions.
2. Employees' base pay will be automatically adjusted each pay period to account for the furlough days. All furlough days shall be taken by June 30, 2011.
 - a. For the pay periods beginning March 16, 2010 through June 30, 2010, full-time employees' base pay will be automatically adjusted by 17.14% each pay period. Thereafter, for the pay periods beginning July 1, 2010 through June 30, 2011, full-time employees' base pay will be automatically adjusted by 9.23% each pay period. All other employees' base pay will be automatically adjusted by using the employees' full-time equivalent (FTE) in computing the percentage to be applied each pay period.

- b. The furlough pay adjustments will be reflected in the paychecks received by affected employees, beginning from:
 - April 5, 2010, if hired before July 1, 1998, or
 - April 20, 2010, if hired on or after July 1, 1998.
3. A Department Head or Department Head's designee will determine when employees are to take furlough days based on operational needs. A Department Head or Department Head's designee may permit employees to request the days on which to take furloughs.
4. If an employee does not take the applicable number of furlough days during a particular month because of operational reasons, as directed by the Department Head or the Department Head's designee, that shall not affect that employee's furlough pay adjustment in that month. Such employee shall take the untaken furlough day(s) within the same fiscal year, as directed by the Department Head or the Department Head's designee, without any additional pay adjustment when such furlough day(s) are taken. Employees shall not forfeit any furlough days due to operational reasons and each Department Head or Department Head's designee shall make every effort to assure that the employee is given the opportunity to take such furlough day(s) as soon as operationally feasible.
5. In situations where a Department Head or Department Head's designee permits an employee to request the day(s) on which to take a furlough(s):
 - a. Such request is subject to approval by the Department Head or Department Head's designee. The Department Head or Department Head's designee retains discretion to determine when furlough days are taken based on operational needs.
 - b. Furloughs shall be taken within the same fiscal year as the applicable pay adjustment period.
6. An employee shall not be credited back-pay for accrued furlough days not taken. However, employees shall not forfeit any furlough days due to operational reasons and each Department Head or Department Head's designee shall make every effort to assure that the employee is given the opportunity to take such furlough day(s) as soon as operationally feasible.
7. Employees who already work other than a normal eight-hour workday (e.g., 4 day/10-hour alternative workweek) may use vacation, compensatory time off, or work to make up the difference between the eight-hour furlough day and the actual hours the employee was scheduled to work. Subject to approval of the Department Head or Department Head's designee the employee may revert to a regular eight (8) hour, five (5) day work week schedule for any week which includes a furlough day.

Example: In the situation where an employee who is scheduled to work ten (10) hours on Friday and Friday is a furlough day off, the employee will be required to charge two (2) hours of vacation or compensatory time off, or work two (2) hours.

8. Employees shall not be permitted to substitute vacation, sick, compensatory time-off, or any paid leave for the furlough day(s).
9. Employees on workers' compensation leave shall have their supplemental pay benefits (i.e., sick/vacation pay) adjusted to account for the furloughs, as may be necessary.
10. *Any furlough days which have been taken by an employee shall not be included in computing whether an employee is entitled to overtime pay (for example, in determining whether an employee has worked more than forty (40) hours in a week, any furlough days/hours taken shall not count as part of those forty (40) hours).*
11. Furloughs shall not cause or be deemed to cause:
 - a. A break of continued service in a furloughed employee's employment;
 - b. A decrease in the Employer's contribution to the Hawaii Employer-Union Health Benefits Trust Fund;
 - c. A change in the amount of vacation or sick leave earned by furloughed employees;
 - d. A decrease in the furloughed employee's length of service for purposes of the employee's retirement and deferred compensation plans;
 - e. Any change in the classification of an employee's position; or
 - f. Any change in an employee's salary range.
12. The salary schedule in effect on June 30, 2009 shall remain in effect until June 30, 2011.



STATE OF HAWAII FURLOUGH PLAN UPW Bargaining Unit 10

Plan Summary

For the purposes of this plan, a furlough is defined as the placement of an employee temporarily and involuntarily in a non-pay and non-duty status by the Employer because of lack of work or funds, or other non-disciplinary reasons.

This furlough plan applies to Executive Branch employees of the State of Hawaii under the authority of the Governor who are members of UPW bargaining unit 10.

Full-time State Executive Branch employees under the authority of the Governor will be placed on furlough for a total of thirty-eight (38) days during the furlough plan period, effective January 1, 2010 through June 30, 2011. Full-time employees will be furloughed fourteen (14) days effective January 1, 2010 through June 30, 2010, and twenty-four (24) days effective July 1, 2010 through June 30, 2011.

Part-time employees under this furlough plan will be placed on furlough on a pro-rated equivalent basis. For example, those who work 20 hours per week will be placed on furlough for a total of nineteen (19) days, instead of thirty-eight (38) days during the furlough plan period.

This plan does not assure continued employment during the furlough period specified herein.

General provisions of the furlough plan are as follows:

1. The furloughs shall be applicable to affected employees, regardless of the means of financing for their positions.
2. Employees' base pay will be automatically adjusted each pay period to account for the furlough days. All furlough days shall be taken by June 30, 2011.
 - a. For the pay periods beginning February 16, 2010 through June 30, 2010, full-time employees' base pay will be automatically adjusted by 14.36% each pay period. Thereafter, for the pay periods beginning July 1, 2010 through June 30, 2011, full-time employees' base pay will be automatically adjusted by 9.23% each pay period. All other employees' base pay will be automatically adjusted by using the employees' full-time equivalent (FTE) in computing the percentage to be applied each pay period.

- b. The furlough pay adjustments will be reflected in the paychecks received by affected employees, beginning from:
 - March 5, 2010, if hired before July 1, 1998, or
 - March 19, 2010, if hired on or after July 1, 1998.
3. A Department Head or Department Head's designee will determine when employees are to take furlough days based on operational needs. A Department Head or Department Head's designee may permit employees to request the days on which to take furloughs.
4. If an employee does not take the applicable number of furlough days during a particular month because of operational reasons, as directed by the Department Head or the Department Head's designee, that shall not affect that employee's furlough pay adjustment in that month. Such employee shall take the untaken furlough day(s) within the same fiscal year, as directed by the Department Head or the Department Head's designee, without any additional pay adjustment when such furlough day(s) are taken. Employees shall not forfeit any furlough days due to operational reasons and each Department Head or the Department Head's designee shall make every effort to assure that the employee is given the opportunity to take such furlough day(s) as soon as operationally feasible.
5. In situations where a Department Head or the Department Head's designee permits an employee to request the day(s) on which to take a furlough(s):
 - a. Such request is subject to approval by the Department Head or the Department Head's designee. The Department Head or the Department Head's designee retains discretion to determine when furlough days are taken based on operational needs.
 - b. Furloughs shall be taken within the same fiscal year as the applicable pay adjustment period.
6. An employee shall not be credited back-pay for accrued furlough days not taken. However, employees shall not forfeit any furlough days due to operational reasons and each Department Head or the Department Head's designee shall make every effort to assure that the employee is given the opportunity to take such furlough day(s) as soon as operationally feasible.
7. Employees who already work other than a normal eight-hour workday (e.g., 4 day/10-hour alternative workweek) may use vacation, compensatory time off, or work to make up the difference between the eight-hour furlough day and the actual hours the employee was scheduled to work. Subject to approval of the Department Head or the Department Head's designee the employee may revert to a regular eight (8) hour, five (5) day work week schedule for any week which includes a furlough day.

Example: In the situation where an employee who is scheduled to work ten (10) hours on Friday and Friday is a furlough day off, the employee will be required to charge two (2) hours of vacation or compensatory time off, or work two (2) hours.

8. Employees shall not be permitted to substitute vacation, sick, compensatory time-off, or any paid leave for the furlough day(s).
9. Employees on workers' compensation leave shall have their supplemental pay benefits (i.e., sick/vacation pay) adjusted to account for the furloughs, as may be necessary.
10. Any furlough days which have been taken by an employee shall not be included in *computing whether an employee is entitled to overtime pay* (for example, in determining whether an employee has worked more than forty (40) hours in a week, any furlough days/hours taken shall not count as part of those forty (40) hours).
11. Furloughs shall not cause or be deemed to cause:
 - a. A break of continued service in a furloughed employee's employment;
 - b. A decrease in the Employer's contribution to the Hawaii Employer-Union Health Benefits Trust Fund;
 - c. A change in the amount of vacation or sick leave earned by furloughed employees;
 - d. A decrease in the furloughed employee's length of service for purposes of the employee's retirement and deferred compensation plans;
 - e. Any change in the classification of an employee's position; or
 - f. Any change in an employee's salary range.
12. The salary schedule in effect on June 30, 2009 shall remain in effect until June 30, 2011.